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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

ANN BLANCHARD, Plaintiff and Respondent, v. STEVE CENICEROS, Defendant and Appellant.	B239130 (Los Angeles County Super. Ct. No. ES015441)

APPEAL from an order of the Superior Court of Los Angeles County, Donna Fields Goldstein, Judge. Affirmed.

Steve Ceniceros, in pro. per., for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

Defendant Steve Ceniceros appeals from the civil harassment protective order issued pursuant to Code of Civil Procedure section 527.6[1] in favor of plaintiff Ann Blanchard, contending that he did not realize that he was agreeing to a stay-away order. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

The record before us does not contain the petition for civil harassment protective order. It does indicate that the request was filed on January 13, 2012, a response was filed on January 24 and the hearing was held on February 3.

At the hearing, defendant agreed to the personal conduct order. After the parties testified under oath, the following colloquy took place:

"The Court: . . . I don't have enough to give a stay-away order, because I have to find by clear and convincing evidence. Right now it's a he-said she-said on the telephone calls.

"[Plaintiff]: Can we continue it? I will bring witnesses that he has come up to me in the meetings and —

"The Court: I will tell you what I am going to do. I am going to give you the order that he has agreed to. And if he continues to bother you, you file it. You keep a record of it. You file for another restraining order and come in with your evidence, and I will include a stay-away order. This is a non-harassment order, but I can't — unless you're willing to do a stay-away order of a small distance?

"[Defendant]: Yes.

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[1] All further statutory references are to the Code of Civil Procedure unless otherwise noted.

"The Court: Would you be willing to do that so we don't have to come back?

"[Defendant]: Yes. Yes.

"The Court: But it's not going to include — except the meetings. You can go to separate meetings.

"[Plaintiff]: Yes. Yes.

"The Court: You can't go to the same meetings. Thirty-foot stay away. Is that acceptable to you?

"[Defendant]: Yes.

"The Court: Go to different meetings. If he's someplace and you come in, he doesn't have to leave. You follow what I'm saying?

"[Plaintiff]: It's the opposite.

"The Court: What I'm saying if there is an N.A. meeting and he is at it, you can't make it a violation by coming in.

"[Plaintiff]: I wouldn't go.

"The Court: Let's give her paperwork. I am going to give her a short stay-away order.

"[Plaintiff]: Can I ask a question?

"The Court: Yes. 'Short' meaning short distance.

"[Plaintiff]: The officers told me at the time, 'Just say the word and we will go.' Because his thing is, 'You can't do anything. You can't stop me. I can do anything I want. I don't have to stop' and on and on and on. And they said, 'No. That's not true.' I do have a right —

"The Court: I am giving you an order. Once you have an order and if he violates that order, the police will take action.

"[Plaintiff]: Well, they said they would now because he comes around to my house and my property and he's up at my door and on the car and leaving notes on my car —

"The Court: Ma'am, I'm giving you a 30-foot stay-away order from you and your car.

"[Plaintiff]: And if he violates, I can call?

"The Court: Call the police.

"[Plaintiff]: All right.

"[Defendant]: Uh-huh.

"The Court: Everybody be happy. You both will be separated. Life will go on. All right."

DISCUSSION

Section 527.6 authorizes a natural person who has suffered "harassment" to obtain an injunction prohibiting further harassment.[2] Subdivision (b)(3) of section 527.6 defines "harassment" as "unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the [plaintiff]." Subdivision (b)(1) defines "course of conduct" as "a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose . . . ."

After the party sought to be enjoined has had notice and an opportunity to respond to the petition for an injunction, the court must hold an evidentiary hearing to receive relevant testimony "and may make an independent inquiry." (§ 527.6, subd. (i).) "If the judge finds by clear and convincing evidence that unlawful harassment exists, an injunction shall issue prohibiting the harassment." (*Ibid.*) On appeal from an injunction

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[2] Section 527.6, subdivision (a)(1), provides: "A person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order and an injunction prohibiting harassment as provided in this section."

prohibiting harassment under section 527.6, "we review the evidence before the trial court in accordance with [all] customary rules of appellate review. We resolve all factual conflicts and questions of credibility in favor of the prevailing party and indulge . . . all legitimate and reasonable inferences to uphold the finding of the trial court if it is supported by substantial evidence which is reasonable, credible and of solid value." (*Schild v. Rubin* (1991) 232 Cal.App.3d 755, 762; accord, *Bookout v. Nielsen* (2007) 155 Cal.App.4th 1131, 1137-1138; *USS-Posco Industries v. Edwards* (2003) 111 Cal.App.4th 436, 444.)

In addressing an appeal, we begin with the presumption that the judgment of the trial court is correct. (*In re Marriage of Arceneaux* (1990) 51 Cal.3d 1130, 1133; *Fleishman v. Superior Court* (2002) 102 Cal.App.4th 350, 357.) "It is well settled, of course, that a party challenging a judgment has the burden of showing reversible error by an adequate record." (*Ballard v. Uribe* (1986) 41 Cal.3d 564, 574; *Robbins v. Los Angeles Unified School Dist.* (1992) 3 Cal.App.4th 313, 318.) Meeting this burden requires citations to the record to direct the court to the pertinent evidence or other matters in the record which demonstrate reversible error. (Cal. Rules of Court, rule 8.204(a)(1)(C); *Guthrey v. State of California* (1998) 63 Cal.App.4th 1108, 1115; *Culbertson v. R.D. Werner Co., Inc.* (1987) 190 Cal.App.3d 704, 710.) It also requires citation to relevant authority and argument. (*Mansell v. Board of Administration* (1994) 30 Cal.App.4th 539, 545-546.)

The only legal authority cited in briefing by defendant is this division's *Nora v. Kaddo* (2004) 116 Cal.App.4th 1026. The facts in *Nora* are readily distinguishable. In *Nora*, the plaintiff petitioned for a restraining order. The defendant opposed the petition without filing a cross-complaint. At the close of the proceedings, the defendant requested affirmative relief in the form of mutual restraining orders. The trial court, refusing to hear witnesses, granted mutual restraining orders. This was improper. (*Id*. at p. 1027.) "The procedure adopted by the trial court deprived both parties of their rights . . . ." (*Id.* at p. 1029.) The plaintiff, who sought a restraining order, was not given the full

opportunity to present his case, and the defendant, who requested mutual restraining orders without filing a cross-complaint, was deprived of his right to defend. (*Ibid*.)

In the instant case, the trial court had both parties sworn at the beginning of the proceedings. Defendant agreed in his response to the personal conduct order. After hearing from both sides, the trial court indicated that it did not have enough evidence to grant a stay-away order by clear and convincing evidence. After further discussion with the parties, defendant agreed to the stay-away order.

Defendant states in his appeal that his misunderstanding resulted in the trial court's issuance of the stay-away order. He claims that he did not realize he was agreeing to a stay-away order. There is nothing in the transcript quoted above which supports his claim.

Code of Civil Procedure section 473, subdivision (b), provides that "[t]he court may, upon any terms as may be just, relieve a party . . . from a judgment . . . taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect." A motion for relief from a judgment under this section "lies within the sound discretion of the trial court . . . ." (*Elston v. City of Turlock* (1985) 38 Cal.3d 227, 233.) This discretion "must be '"exercised in conformity with the spirit of the law and in a manner to subserve and not to impede or defeat the ends of substantial justice."' [Citations.]" (*Ibid*.) However, before relief may be granted, the party seeking relief must demonstrate that the judgment was taken against him or her through mistake, inadvertence, surprise, or excusable neglect. (See *id*. at p. 234.)

If defendant believed that the stay-away order was issued based upon his misunderstanding, it was incumbent upon him to seek relief from the trial court. There is nothing in the record that indicated he attempted to seek relief and we are without legal authority to grant his request.

DISPOSITION

The order is affirmed.

JACKSON, J.

We concur:

WOODS, Acting P. J.

ZELON, J.